

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

JOSHUA P. TENUTA, SP 2013-DR-068 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit reduction in minimum yard requirements based on errors in building locations to permit accessory structure to remain 7.4 ft. from side lot line, accessory storage structure to remain 1.3 ft. from side lot line and 9.7 ft. from rear lot line, another accessory storage structure to remain 2.3 ft. from side lot line, deck to remain 1.6 ft. from side lot line and trellis to remain 7.6 ft. from side lot line. Located at 2212 Boxwood Dr., Falls Church, 22043, on approx. 10,357 sq. ft. of land zoned R-4. Dranesville District. Tax Map 40-4 ((10)) (D) 4. (Admin. moved from 10/30/13 for ads.) Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on November 20, 2013; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the property.
2. According to the record, the non-compliance was done in good faith or through no fault of the present property owner.
3. The Board was not too concerned with the garage structure itself. It seemed to have been lined up incorrectly after the issuance of a building permit.
4. The setbacks are to the eaves.
5. There is really a little bit more setback than that.
6. It is almost in compliance, although it exceeds the 10 percent.
7. The other structures fall within the ambient of this Ordinance.
8. The applicant has satisfied Standards A through G set forth in the Ordinance in order to grant a special permit for all of these uses.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;
- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;

- C. Such reduction will not impair the purpose and intent of this Ordinance;
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
- E. It will not create an unsafe condition with respect to both other property and public streets;
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.


NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. This special permit is approved for the location of the two accessory structures (garage and trellis) two accessory storage structures (sheds), and an open deck, as shown on the plat prepared titled, "Setback Certification Survey, Lot 4, Section One and Two, Block 'D', Churchill Subdivision," prepared by Remy G. DuCote, L.S., dated September 26, 2012 as revised through July 29, 2013.
- 2. All applicable permits and final inspections shall be obtained for the garage and breezeway within 180 days of approval of this application.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Mr. Smith seconded the motion, which carried by a vote of 7-0.

A Copy Teste:



Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals